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Attorney for Defendant
DAVID TALCOTT USSERY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. Cr. S 05-34 LKK
)	
Plaintiff,)	STIPULATION AND [lodged] ORDER TO
)	REDUCE SENTENCE PURSUANT TO 18
v.)	U.S.C. § 3582(c)(2)
)	
DAVID TALCOTT USSERY,)	<u>RETROACTIVE CRACK COCAINE</u>
)	<u>REDUCTION CASE</u>
Defendant.)	
)	
_____)	

Defendant, DAVID TALCOTT USSERY, by and through his attorney,
Assistant Federal Defender David M. Porter, and plaintiff, UNITED
STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney
PHILLIP A. TALBERT, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the
term of imprisonment in the case of a defendant who has been sentenced
to a term of imprisonment based on a sentencing range that has
subsequently been lowered by the Sentencing Commission pursuant to 28
U.S.C. § 994(o);

2. On September 12, 2006, this Court sentenced Mr. Ussery to a
term of imprisonment of 165 months;

3. On May 15, 2008, the parties filed a stipulation to reduce

Mr. Ussery's sentence to 143 months;

4. On May 22, 2008, the Court issued an order reducing Mr. Ussery's sentence to 143 months;

5. The total offense level applicable to Mr. Ussery was subsequently lowered by the United States Sentencing Commission in Amendment 750, and an appropriate sentence within the new guideline range considering the factors set forth in 18 U.S.C. § 3553(a) would be 121 months;

6. Mr. Ussery merits a reduction in his sentence based on the factors listed in 18 U.S.C. § 3553(a), as well as considerations of public safety and Mr. Ussery's positive post-sentencing conduct;

7. Accordingly, the parties request the court enter the order lodged herewith reducing Mr. Ussery's term of imprisonment to 121 months. At such time as the Court approves this stipulation, Mr. Ussery agrees to the dismissal of his pro se motion filed November 28, 2011.

Dated: December 7, 2011

Respectfully submitted,

BENJAMIN B. WAGNER
United States Attorney

DANIEL J. BRODERICK
Federal Defender

/s/ Phillip A. Talbert
PHILLIP A. TALBERT
First Assistant U.S. Attorney

/s/ David M. Porter
DAVID M. PORTER
Assistant Federal Defender

Attorney for Plaintiff
UNITED STATES OF AMERICA

Attorney for Movant
DAVID TALCOTT USSERY

ORDER

This matter came before the Court on the pro se motion of the defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) filed on November 28, 2011.

STIPULATION AND ORDER TO REDUCE SENTENCE

1 On September 12, 2006, this Court sentenced Mr. Ussery to a term
2 of imprisonment of 165 months. On May 22, 2008, the Court resentenced
3 Mr. Ussery pursuant to 143 months to the parties' stipulation.

4 The parties agree, and the Court finds, that Mr. Ussery is
5 entitled to the benefit of the retroactive amendment reducing crack
6 cocaine penalties, and that an appropriate sentence within the new
7 guideline range in light of the factors set forth in 18 U.S.C.
8 § 3553(a) would be 121 months.


9 IT IS HEREBY ORDERED that the term of imprisonment originally
10 imposed is reduced to 121 months.

11 IT IS FURTHER ORDERED that the pro se motion filed November 28,
12 2011 is DISMISSED;

13 IT IS FURTHER ORDERED that all other terms and provisions of the
14 original judgment remain in effect.

15 Unless otherwise ordered, Mr. Ussery shall report to the United
16 States Probation office closest to the release destination within
17 seventy-two hours after his release.

18 Dated: December 8, 2011

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22 LAWRENCE K. KARLTON
23 SENIOR JUDGE
24 UNITED STATES DISTRICT COURT
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